



## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA-2023-0010]

### National Public Transportation Safety Plan

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice of availability of proposed National Public Transportation Safety Plan; request for comments.

**SUMMARY:** The Federal Transit Administration (FTA) invites public comment on a proposed update to the National Public Transportation Safety Plan (National Safety Plan). The proposed National Safety Plan would rescind and replace the plan that FTA published in January 2017. This new version of the National Safety Plan, like the version before it, is intended to guide the national effort to manage safety risk in our nation's public transportation systems. It lays out a performance-based approach to reduce injuries and fatalities on transit systems under FTA's safety jurisdiction. This proposed update to the plan also supports the USDOT's long-term goal of reaching zero fatalities on America's roadways, as presented in the January 2022 National Roadway Safety Strategy, by adding safety performance criteria for vehicular collisions and providing voluntary standards for bus transit. Pursuant to the Bipartisan Infrastructure Law, the proposed update to the plan also establishes performance measures for Public Transportation Agency Safety Plan (PTASP) risk reduction programs.

**DATES:** Comments should be filed by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FTA will consider comments received after that date to the extent practicable.

**ADDRESSES:** You may send comments, identified by docket number FTA-2023-0010, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for

sending comments.

- Fax: (202) 493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C., 20590-0001.
- Hand Delivery / Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue S.E., Washington, D.C., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Instructions: All submissions received must include the agency name and docket number (FTA-2023-0010). All comments received will be posted without change to

<https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> or the street address listed above.

**FOR FURTHER INFORMATION CONTACT:** For program matters, contact Arnebya Belton, Office of Transit Safety and Oversight, 202-366-7546 or [arnebya.belton@dot.gov](mailto:arnebya.belton@dot.gov). For legal matters, contact Emily Jessup, Office of Chief Counsel, 202-366-8907 or [emily.jessup@dot.gov](mailto:emily.jessup@dot.gov).

Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** This notice provides a summary of the proposed update to the National Safety Plan. The National Safety Plan itself is not included in this notice; instead, the proposed update to the plan is posted in the docket for this notice. FTA seeks public comment on this proposed National Safety Plan.

## **Background and Overview**

Congress first directed FTA to create and implement a National Public Transportation Safety Plan (National Safety Plan) under the Moving Ahead for Progress in the 21st Century (MAP-21) Act, which authorized a new Public Transportation Safety Program (Safety Program) at 49 U.S.C. 5329 (Pub. L. 112-141). The Safety Program was reauthorized by the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-94) and again by the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58).

On February 5, 2016, FTA first published a *Federal Register* notice (81 FR 6372) seeking comment on a proposed National Safety Plan. FTA conducted a number of public outreach sessions and a webinar series related to the proposed National Safety Plan and the PTASP notice of proposed rulemaking that also was published in the *Federal Register* on February 5, 2016 (81 FR 6343). Subsequently, FTA published a summary of the final changes to the National Safety Plan and responses to comments in the *Federal Register* (82 FR 5628) and published the finalized plan to the docket and on FTA's website.

Pursuant to 49 U.S.C. 5329(b), the National Safety Plan includes several elements intended to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53. The Bipartisan Infrastructure Law adds new elements that must be included in the National Safety Plan, including:

- Safety performance measures related to the PTASP safety risk reduction program;
- In consultation with the Secretary of Health and Human Services, precautionary and reactive actions required to ensure public and personnel safety and health during an emergency; and
- Consideration, where appropriate, of performance-based and risk-based methodologies.

The Bipartisan Infrastructure Law also requires that the minimum safety performance standards for public transportation vehicles used in revenue operations take into consideration, to the extent practicable, innovations in driver assistance technologies and driver protection infrastructure, where appropriate, and a reduction in visibility impairments that contribute to

pedestrian fatalities.

This proposed update continues to mature FTA's National Public Transportation Safety Program and addresses new requirements in the Bipartisan Infrastructure Law to further advance transit safety.

The proposed National Safety Plan is organized into the following three chapters:

*Chapter I Keeping Safety the Top Priority:* Chapter I presents FTA's safety vision, strategic objectives, and an overview of FTA's National Public Transportation Safety Program; and provides high-level safety performance data related to FTA safety priorities.

*Chapter II Safety Performance Criteria:* Chapter II defines safety performance measures for transit agencies required to establish and implement Agency Safety Plans under FTA's PTASP regulation.

*Chapter III Voluntary Minimum Safety Standards:* Chapter III provides voluntary minimum safety performance standards for public transportation vehicles used in revenue operations and voluntary minimum safety standards to ensure the safe operation of public transportation systems, as well as recommended practices that may support the transit industry in assessing and mitigating safety risk and help improve safety performance.

FTA is considering the development of mandatory standards for Rail Transit Roadway Worker Protection and Transit Worker Fitness for Duty through rulemaking that may supersede the voluntary minimum safety standards and recommended practices identified in Category A of Chapter III.

### **Voluntary Safety Standards and Recommended Practices**

The proposed National Safety Plan includes an updated list of voluntary minimum safety standards and recommended practices to support mitigation of safety risk and to improve safety performance. The list in the proposed National Safety Plan includes new categories beyond those included in the 2017 version of plan, such as transit worker safety, pedestrian and bicyclist safety, rail grade crossing safety, tunnel ventilation, and fire safety. The proposed list is more

comprehensive than the list in 2017, incorporating the large number of voluntary minimum safety standards and recommended practices issued and identified in the intervening years. The proposed list is also organized into a greater number of discrete categories to facilitate understanding. Pursuant to the Bipartisan Infrastructure Law, the proposed National Safety Plan also includes precautionary and reactive actions to ensure public and personnel safety and health during an emergency. FTA coordinated with the Department of Health and Human Services on the list of such recommended actions.

### **Safety Performance Measures**

Under FTA's PTASP regulation, transit agencies must set performance targets based on the safety performance measures established in the National Safety Plan (49 CFR 673.11(a)(3)). The 2017 version of the National Safety Plan identified seven performance measures to support PTASP performance target setting. The proposed update to the National Safety Plan increases the number of these measures from seven to 14. The proposed seven new performance measures are: Collision Rate, Pedestrian Collision Rate, Vehicular Collision Rate, Transit Worker Fatality Rate, Transit Worker Injury Rate, Assaults on Transit Workers, and Rate of Assaults on Transit Workers. These additions are consistent with the Bipartisan Infrastructure Law's increased focus on bus collisions and transit worker safety.

In addition to the measures described above, the Bipartisan Infrastructure Law directs FTA to include performance measures for the safety risk reduction program required under 49 U.S.C. 5329(d)(1)(I) in the National Safety Plan. In accordance with 49 U.S.C. 5329(b)(2)(A), the National Safety Plan identifies eight measures required for safety risk reduction programs, which apply to Section 5307 recipients that serve an urbanized area of 200,000 or more: Major Events, Major Events Rate, Collisions, Collisions Rate, Injuries, Injury Rate, Assaults on Transit Workers, and Rate of Assaults on Transit Workers. FTA is proposing these measures as they align with the goals of the safety risk reduction program as described in FTA's PTASP notice of proposed rulemaking, namely reducing the number and rates of safety events and injuries, reducing

vehicular and pedestrian safety events involving transit vehicles, and mitigating assaults on transit workers. FTA's proposal to identify Major Events, Major Event Rate; Injuries, and Injury Rate as performance measures addresses the safety risk reduction program goal of reducing the number and rates of safety events and injuries. Similarly, proposing Collisions and Collisions Rate as performance measures addresses the goal of reducing vehicular and pedestrian safety events and the measures of Assaults on Transit Workers and Rate of Assaults on Transit Workers address the reduction of assaults on transit workers.

Pursuant to the Bipartisan Infrastructure Law, performance targets for the risk reduction program must be set based on a 3-year rolling average of NTD data. FTA recognizes that certain transit agencies may not yet report detailed safety event information to the NTD that corresponds to these performance measures. FTA proposed requirements to address this situation in a Notice of Proposed Rulemaking for the PTASP regulation, which was published in the *Federal Register* on April 26, 2023 (88 FR 25336).

FTA also notes that some of the eight performance measures for the safety risk reduction program overlap with the 14 measures for all agencies subject to the PTASP regulation described above. Section 5307 recipients that serve an urbanized area with a population of 200,000 or more may choose to use the same target for both measures, provided the target for the safety risk reduction program is based on a 3-year rolling average of NTD data.

Performance targets for a risk reduction program at 49 U.S.C. 5329(d)(4) are not required until FTA has finalized the National Safety Plan to include these performance measures. However, nothing precludes an Agency from implementing a risk reduction program in advance and updating it once the performance measures are finalized.

In the National Safety Plan, FTA also proposes that when setting safety performance targets, transit agencies should use the following modal groups: rail, fixed route bus, and non-fixed route bus. This is responsive to 49 U.S.C. 5329(b)(2)(A), which requires FTA to identify safety performance criteria for all modes of public transportation.

After reviewing and responding to the comments received on this proposed National Safety Plan, FTA will issue a final National Safety Plan.

**Nuria I. Fernandez,**

*Administrator.*

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